

Book Review

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Charles Tilly, *Why?* Princeton University Press, 2006, ISBN 9780691136486, £9.95 (paperback); and *Credit and Blame*, Princeton University Press, 2008, ISBN 9780691135786, £14.95 (paperback)

There are two reasons that make this a difficult review to write. The first is that the author of both books, Charles Tilly, is no longer alive (he died on April 29, 2008). The second is that both books are not themselves squarely addressed to criminal lawyers or theorists; nor do they respond, at least not explicitly, to the problems and challenges lurking amongst the tangles of thickets of criminal law and its theoretical literature.

Reviewing books of recently deceased authors is difficult not only because those authors no longer have an opportunity to reply or cannot, more wishfully, make any use of one's comments. They are difficult because one feels that what is appropriate is the celebration of a lifetime's work. This is all the more so when the author is as much esteemed, and indeed as much loved, as Tilly.

Turning to the second difficulty, reviewing books that do not fall within a certain disciplinary boundary of interest to the editors and readers of a particular journal, raises the potential for conflict, disappointment and misunderstanding between the authors of reviews, book-review editors, and readers.

It is relevant to begin with these difficulties because both of these books deal with exactly the sorts of worries expressed above, namely with providing reasons, sometimes in order to assign credit or blame, where what is at stake is the establishment, confirmation, negotiation or reparation of the relations between the givers of reasons and their receivers. The earlier and broader of the two books, *Why?* (2006; hereinafter, within citations, *W*), looks at four different kinds of reason giving: conventions, stories, codes and technical accounts. The later and shorter book, *Credit and Blame* (2008; hereinafter, within citations,

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C & B), focuses in on the second of the above four categories, i.e., stories, insofar as they dominate the ways in which credit and blame tend to be assigned.

Both books are to be applauded for their simplicity and accessibility, while remaining remarkably analytically acute, subtle and erudite. They are also to be admired because before the publication of these two books (in the last few years of his life), Tilly was known largely for his historically-informed sociological work on large-scale social processes, principally revolutions and democratisation, as well as for his contribution to social science research methodology. All scholars know how difficult it is to turn to new material in the twilight of one's career, especially with as much zest and light-footedness as Tilly has achieved here. With these two books, then, current and future generations will also remember, and fittingly celebrate, Tilly for a unique contribution to our understanding of the pervasive practices of giving and receiving reasons, and assigning credit and blame.

There are plenty of insights in these two books of obvious relevance for criminal lawyers and theorists. Indeed, Tilly's discussion of codes as a form of reason giving (chapter four of *Why?*) itself indicates that he is by no means oblivious to some of the unique aspects, as well as benefits and costs, of code-governed reasons. The credibility of reasons based on codes does not emanate from the cause-effect validity that prevails in stories and technical accounts, but from 'logics of appropriateness', i.e., the categories, procedures and rules that have emerged over time, incrementally, in organisations. Codes have their own dynamics, which emerge from the give and take of organisational life, thereby also containing 'residues of organisational histories' and limiting current behaviour within organisations (*W*, p. 104).

The gap that Tilly identifies between codes and stories is important. Whatever cause-effect reasoning might go on in the life of legal organisations, what dominates, particularly in courtrooms, is the matching of evidence concerning behaviour to the available categories. Stories, on the other hand, are radically simplified 'explanatory narratives that are composed of one or a few actors, a limited number of actions that cause further actions through altered states of awareness, continuity in space and time, and an overall structure leading to some outcome or lesson' (*W*, p. 85). They minimise or avoid the causal role of errors, unanticipated consequences, as well as indirect, incremental, simultaneous, environmental and other effects, which feature in technical reason giving (and which are explored in detail in chapter five). Further, stories tend to 'rely on (or claim) membership in a shared community of belief', whereas 'codes typically call up careful matching of the individuals involved with standardised identities' (or roles, such as prosecutor, judge, juror, defendant, etc.) (*W*, p. 27). For example, where that shared community of belief is a Christian one, the narrative idiom is likely to resemble the 'Christian hero', where the narrative pattern is composed of someone else's action or remark making the Christian hero aware of his failings, followed by divine inspiration being sought by the stricken hero, and finally a change in course by the hero (*W*, p. 63). Typically wide-ranging (and also characteristically entertaining), Tilly discusses in this context Raphael Samuel's biography of East End Underworld character, Arthur Harding, whose accounts (based on interviews spanning many years) revealed just how much he conformed to that kind of narrative idiom and pattern (see *W*, pp. 85–89; Samuel 1981).

In setting up a gap between stories and codes, Tilly also portrays professionals involved in legal organisations—including judges, lawyers and police officers—as constantly performing conversions from popular idioms into specialised discourses (*W*, p. 120). The specialised discourse that stories need to be translated into resembles more closely the formula-based nature of conventions, rather than the (simplified) cause-effect scenarios of stories. Like codes, conventions (e.g., 'my train was late', 'your turn finally came', etc.)

rest on ‘logics of appropriateness’, i.e., when they work, ‘they do so because they fit appropriately into local conditions, not because they offer adequate explanations of what actually happens locally’ (W, p. 60). Also like codes, they tend to ‘smooth interpersonal relations’, though conventions do so without relying on expert knowledge. Finally, one could add here that reasons based on codes and conventions also resemble each other in their (at least defeasible) finality.

If there is such a gap between code-based reasons and story-based reasons, and if legal professionals are constantly involved in feats of translation, then it would presumably benefit legal professionals to pay more attention to the way stories work. This is the theme taken up by *Credit and Blame* (2008). Retaining certain features of the account of story-based reasons from *Why?*, the later book goes much deeper into the kinds of judgements persons make when using stories to assign credit and blame. Indeed, story-based reasons and assigning credit and blame go hand in hand. Stories, as already noted above, are explanatory narratives incorporating limited numbers of actors, action and simplified cause-effect accounts in which the actors’ actions produce all the significant outcomes (C & B, p. 20). Judgements of credit and blame rely on identifying an effective agent, i.e., someone who caused some outcome, which, in turn, produces a certain change in value (C & B, p. 12). Both stories and the assigning of credit and blame would not be possible without the foundational concepts of outcome, agency, competence and responsibility (C & B, p. 11).

Somewhat cutely, and with, one presumes, some irony, Tilly offers us what he calls a ‘justice detector’, i.e., a method for understanding, and indeed performing, the assignment of credit or blame: ‘identify the relevant activity, single out the crucial actor, pinpoint the action(s) in question, specify the effect, figure the actor’s contribution to that effect, estimate the value change, rate the actor’s competence and responsibility, multiply the elements, and *voilà*: your own assignment of credit or blame’ (C & B, p. 37). For the bulk of the book, Tilly shows the justice detector at work in an impressive variety of social contexts, including networks, promotions, honours and tournaments with respect to credit, and courtrooms and commissions (including Truth and Reconciliation Commissions and the 9/11 Commission) with respect to blame.

Although he offers many examples from the practices of assigning credit and blame in everyday life, Tilly is also very sensitive to the ‘rough ground’ of public memorials of victory, loss and blame (C & B, p. 125). One of the book’s most important messages is how both everyday life and public assignment of credit and blame (but particularly blame in public contexts) tends to sharpen any pre-existing, or if not, then create, us-them boundaries. He warns of the democracy-undermining dangers of writing us-them divisions into law and politics. Public monuments, based on inevitably selective collective memory, where, typically, what is blamed by ‘us’ is credited by ‘them’, may facilitate division (and retaliation) rather than reconciliation and reparation.

Clearly, however, Tilly is not attacking the ‘successful pursuit of legal redress’—a form of the public assignment of blame—that he explicitly says ‘reinforces democracy’ (C & B, p. 150). Indeed, for Tilly, not only is the legal system ‘an echo chamber for conversations about credit and blame’ (C & B, p. 35), but blame, which ‘can easily become a persistent, destructive habit’, can also bring struggles to end, i.e., it can be creatively destructive (C & B, p. 119). It can achieve this when it is ‘carried out successfully through retaliation, incapacitation, deterrence, rehabilitation, and/or restoration’ (C & B, p. 119)—all of which receive analysis in the book’s second chapter, which looks specifically at how judgements of blame are matched up with punishments. Experts on punishment will find little to be surprised about here, but the book manages to be so simple and accessible that it is likely to

be as refreshing for experts, as it is highly (and importantly) informative for non-specialists. Indeed, just as the book may allow criminal lawyers and theorists to appreciate a little bit more about the structure of stories that dominate popular conceptions of justice, so it may enable non-specialists to appreciate the peculiar dynamics of legal organisations.

All these are insights readily available to criminal lawyers and theorists who wish to rush to see the relevance of these two books for their work. But the books speak on many other levels too. Tilly has much to say, in both books, but particularly in *Credit and Blame*, on the life of the academic world. Theorists concerned about the ethical life of academic communities will find much to learn from here about sometimes not easily spotted (or at least taken for granted) structures of credit and blame that have their own effects on how scholars do scholarship (e.g., his behind-the-scenes discussion of academic prizes is both amusing and depressing; see *C & B*, pp. 67–71).

However, more simply, and equally more fundamentally, both books remind us just how often, in both specialised domains and everyday life, we express judgement on each other. Further, both books remind us how those judgements—which Tilly recognises are expressed both verbally and non-verbally—are means by which we constantly negotiate and re-negotiate our relationships. The books help us to see relations being negotiated where we might otherwise have missed them, just like here, in this review, relations, *inter alia*, between the author and reviewer, editor and reviewer, readers and reviewer, and readers and editor, are at stake. And is this more general lesson not easy to lose sight of when we, as legal scholars, spend the bulk of our time thinking about categories, procedures and rules?

Reference

- Samuel, R. (1981). *East end underworld. 2: Chapters in the life of Arthur Harding*. London: Routledge and Kegan Paul.